



SPENCER OPPOSES RATE FIXING BILL

Speaking for Many Roads
the Southern's Presi-
dent Assails It.

REBATES WRONG. ALL HANDS ADMIT

in a Lengthy Talk Before the
House Committee Mr. Spencer
Discusses Various Phases of
the Cooper-Quarles Bill
Which He Regards
Unnecessary.

(By Associated Press.)
WASHINGTON, January 12.—Samuel Spencer, president of the Southern Railway and authorized to voice the sentiments of the New York Central, Erie, Chicago, Milwaukee and St. Paul, Northern Pacific, Illinois Central, Delaware, Jacksonville and Western and other railway companies, spoke vigorously to-day before the House Committee on Interstate and Foreign Commerce against the Cooper-Quarles bill or any proposition to authorize the Interstate Commerce Commission to fix railway rates. Mr. Spencer is the first direct and official representative of the railways to be heard by the committee, and his testimony is regarded as the keynote of the opposition to rate fixing by the government. Mr. Spencer said the interstate commerce law and the commission had been in operation for eighteen years. Before its operation the rebate, the secret contract and discriminatory device of various kinds were the rule. Now the reverse is the case. Rates are substantially maintained.

Says Rebates Are Wrong.
"There is no difference of opinion," continued Mr. Spencer, "between the railroads of the country, Congress and the President on the subject that rebates are wrong. We agree with the language of the President, 'the highways of transportation must be kept open to all upon equal terms.' On that basis all the companies are equally anxious to aid and cooperate. But I do not think any additional legislation is necessary in order to proceed against that particular class of abuses. If such legislation does appear to Congress to be necessary, the railroads of the country will certainly stand, and I have no hesitations in saying so, in co-operation with the government to suppress the particular phase of regulation has already been pronounced by the commission as fully covered by existing statute. It simply becomes a question of enforcement of the law."

Asked the question as to the necessity for the proposed legislation, Mr. Spencer said about ninety per cent. of all the charges or conditions of various kinds which have been presented to the Interstate Commerce Commission during that time have been adjusted without formal hearing and decisions by the present commission. "That," he said, "does not indicate either a fight or non-cooperation on the part of the railroads."

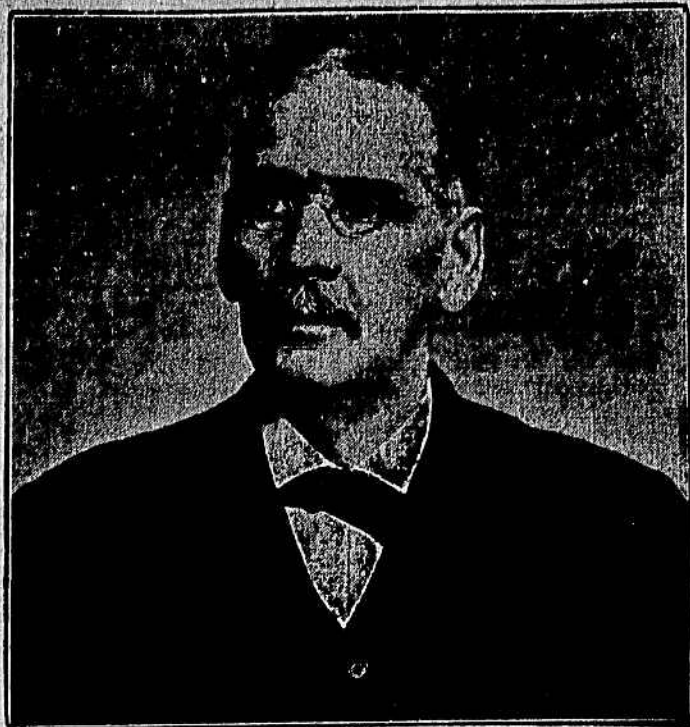
Of the remaining ten per cent. of the work of the commission, scarcely two per cent. was the subject of litigation. Of 194 cases decided against the railroads, 43 went to litigation, showing acquiescence of the railroads in four-fifths of the decisions of the commission. Of the 43 cases, 25 related to rates, and in 22 of these, the decisions were reversed by the courts.

Referring to the personnel of the commission, Mr. Spencer expressed the confidence of the railway world in it and said it was justly worthy of the respect of the country.

The Rate-Making Power.
There was but one feature of the Cooper-Quarles bill which he thought was especially objectionable, the conferring power on the commission to substitute a rate for one complained of as unreasonable, after due hearing, said rate to remain in effect subject to change only by the commission, but not to be changed by the railroads. The reasons advanced for the necessity for this power were enumerated by Mr. Spencer, as, first that it is merely restoring a power which the commission had for ten years exercised.

Mr. Spencer denied that this power had ever legally existed and he reviewed the cases and litigation which led to the decision of the courts prohibiting the exercise of the power by the commission in 1897. "It is," he said, "a power which, if it were in the hands of the commission, would be a deterrent in the matter of secret rebating and other devices for evading a rate. But the use of that weapon would punish not only the evader but the innocent. It would be a task so enormous that no statement could convey a comprehension of it, but would be impossible of satisfactory completion in the hands of a body with authority to take into consideration and the adjustment of rates with reference to their equalizations of carrier was concerned and leaving out the question of competition between localities.

In the problem, the price of commodities of every sort would have to be taken into consideration, and he instanced the competition between mining centers, agri-



DR. THOMAS P. MATHEWS,
The Well Known Physician Who Died in Manchester Yesterday.

DR. MATHEWS DIES IN MANCHESTER

The Well Known and Beloved
Physician Passes Away After
a Long Illness.

A LONG LIFE WELL SPENT

Had Long Enjoyed an Extensive
Practice and Been Active
in Church Work.

Dr. Thomas P. Mathews, one of the most widely known physicians in this community and a Christian gentleman, died in affectionate regard by all who knew him, died yesterday morning at his home, No. 1300 Bainbridge Street, Manchester.

The funeral will take place this afternoon from Bainbridge Street Baptist Church, of which deceased had long been one of the leading members. Several ministers will take part in the services, and the interment will be made in Hollywood, where three of his children are buried.

The death of Dr. Mathews, following weeks of pain and suffering, was peaceful. Although his family and friends had hoped until within a few days of the end that he might recover, the physician realized from the beginning that he would hardly get up again. Having lived in simple faith, he died in the blessed hope of eternal life.

A Man Among Men.

Dr. Mathews was one of the most widely known men of the community. He had lived in Manchester for thirty years, and had a large practice in that city and in Richmond and Chesapeake County. He was a family physician of the old school, and in some homes had practiced on as many as five generations. He possessed talents as a surgeon, but did not make a specialty of this. His distinct field was home practice. Of genial disposition and sunny temperament, his visits to the sick room were rays of sunshine. His patients not only had the utmost confidence in his skill, but also loved him as a gentle and sympathetic friend. Their devotion was shown by the sorrowing crowds who flocked to the home yesterday afternoon and last night. Though busy, engaged with a large practice, Dr. Mathews took a deep interest in public and religious matters, and in the latter was quite active. He shrank from public office, but was ever ready to counsel and aid in any matter looking to the welfare of the community. His church and denominational work he gave freely of his time and means, and rendered valuable service. Whether as teacher,

(Continued on Seventh Page.)

SANITY OF DUKE TO BE INQUIRED INTO

Justice Gaynor Appoints a Commission
for This Purpose.
Habeas Corpus To-day.

(By Associated Press.)
NEW YORK, January 12.—Justice Gaynor, of the Supreme Court, to-day appointed Isaac Franklin Russell, of the New York Law University, Edwin W. Candee and Dr. Thomas L. Fogarty, of Brooklyn, to act as a commission to inquire into the sanity of Brodie L. Duke, now confined in a sanitarium at Poughkeepsie, N. Y. The commission was appointed in response to a petition presented to Justice Gaynor this afternoon by Mr. Unger, of the law firm of Levy and Unger, in behalf of Mrs. Duke and her husband. Mrs. Duke's petition alleges that Duke's commitment to the sanitarium by Justice Gaynor was without previous notification to her of his husband, and that the patient is deprived of his liberty without due process of law. To-morrow before Justice Gaynor in Brooklyn, Brodie L. Duke will be taken to court on a writ of habeas corpus, signed yesterday by that justice. It was learned to-day that not only will he have the marriage of his kinman to Miss Webb annulled, but will bring criminal charges against certain persons, who will be charged with a conspiracy to bring about his marriage.

SLAP IN THE FACE SAY THE ALUMNI

Resolutions Passed Con-
demning Athletic
Committee

SUBSCRIPTION LIST WILL BE DESTROYED

Plan for New Athletic Park at
an End—Richmond Will Have
a Game Thanksgiving Day,
V. M. I. and V. P. I.

Will Probably be
Selected.

The alumni of the University of Virginia, engaged in the furtherance of athletics, met in the Chamber of Commerce on yesterday afternoon and remained in session nearly two hours, discussing the affront that had been placed upon them and upon the citizens of Richmond by the committee of the Athletic Association of the University of Virginia.

Resolutions condemning the committee were adopted.

The distinction was very clearly drawn between the authorities of the University and the student body, on one hand; and the five members of the athletic committee, on the other, who voted against Richmond for the Thanksgiving game, and gave that game to Norfolk. Of the seven members of this committee, Messrs. M. McGulre and Leo Marshall, graduate members, voted for Richmond; the remaining five—Dr. W. G. Christian, faculty member, and Messrs. J. Tate Mason, Vivian Slaughter, Edward M. Daniel and Joseph Stilton, student members—voted for Norfolk.

Yesterday's meeting was called to order by Mr. B. Randolph Welford, president of the Richmond Chapter of the Alumni, who stated that the meeting had been called for the purpose of publicly expressing the regret of the alumni at the action of the Committee on Athletics at the University of Virginia in taking the Thanksgiving game from Richmond and giving it to Norfolk.

A general discussion of the matter followed.

One well known gentleman, who takes the liveliest interest in the University, said:

"The action of the Athletic Committee was most unwise. We do not think the University is doing the best she can do for herself, and we are both hurt and grieved at her treatment of us."

Withdraws Support.

Another gentleman, a member of the University, who holds a high position in the local chapter, said:

"I for one will never raise my hand to help athletics at the University until the athletic authorities come to us. I don't believe in holding out any olive branch to them. They have slung us in the face and have plainly showed that they have no use for us."

"I will join hands with the other citizens of Richmond to get some other college to play here on Thanksgiving day," said the speaker, an old member of the team, said:

"I am in favor of letting the University know just what we think of the way we have been treated. We have educated the people by long and arduous work, and now when we have placed the game on the financial and social basis, the Athletic Association gives away the result of our long years of labor."

Didn't Read Telegram.

Mr. Joseph Bryan told the story of his part in the fight.

On the morning of the final meeting of the Athletic Committee, Mr. Bryan sent the following telegram to Dr. Christian, faculty member:

Richmond, January 6, 1905.

Dr. W. G. Christian,

University of Virginia:

If the Thanksgiving football game is taken from Richmond, in view of the ample provision now making for grounds, the effect will be to deprive the school of the best of its athletic interest, and to deprive the friends of the University here, probably frustrating all the plans now on foot. Richmond will be practically lost to the University Athletic Association. Your committee should understand the seriousness of the situation.

(Signed) JOSEPH BRYAN.

The telegram was not read to the entire committee, and no reply to it was received until Mr. Bryan had sent the following letter to Dr. Christian:

University of Virginia:

Dear Sir:—Referring to my telegram to you yesterday, concerning the Thanksgiving Day football game and whether it would be held in Richmond or Norfolk, I see by the papers this morning that the next Thanksgiving game has been granted to Norfolk, but it was stated that Norfolk was only asking for one game and that only one game was pledged to Norfolk.

Please let me know whether the Richmond Alumni are to understand and distinctly and affirmatively that after the next Thanksgiving game the game will be brought back to Richmond. If this is clearly understood, it may be possible to rally our forces and arrange for the purchase of the necessary ground and the erection of proper buildings. If this is not understood the matter will simply be dropped.

I understand that already there is discussion and loss of interest, which I thought would be the result of a decision against Richmond. I am an authoritative and conclusive statement from the Committee on this question, as it is necessary.

Continued on Sixth Page.

88 WANT HELP TO-DAY.

The 88 advertisements for help published in to-day's Times-Dispatch on pages are as follows:

3 Trades. 26 Domestic.

26 Professional. 3 Office.

14 Miscellaneous. 16 Salesmen.

This not only interests those out of work, but those desiring to improve their positions as well.

(Continued on Third Page.)

FEATURES OF NOTED M'CUE CASE BRIEFLY SET FORTH

Mrs. Fannie M. McCue, wife of J. Samuel McCue, former Mayor of Charlottesville, was murdered in their home in that city on Sunday evening, September 4th.

McCue claimed that an intruder had entered their bedroom, just after their return from church, and while they were preparing to retire. Later, the wife was found beaten and shot to death in the bath tub. McCue offered a liberal reward.

A coroner's jury immediately began an inquest. Before it concluded its work, McCue was arrested, charged with the murder of his wife. The accused, retained brilliant counsel. He was indicted at the September term of court, was arraigned and pleaded not guilty. The case was set for trial at the October term.

Great difficulty was experienced in getting a jury. Just 163 veniremen were summoned before twelve jurors were accepted. The cost for jurors and mileage was \$1,856.09. Hearing of testimony was begun October 25th. Instructions were offered and argued, the case elaborately argued and given to the jury before noon November 5th. In less than thirty minutes the jury reported a verdict of guilty. Motion to set aside the verdict was refused. An appeal was allowed, the petition and record prepared and forwarded to the appellate court January 3, 1905. The court yesterday refused the writ of error.

DISGRACE FOR ANOTHER'S CRIME

Dying Woman Confesses That
Convicted Man Is
Innocent.

THREE YEARS IN PRISON

Will be Given Full Pardon at
Once, But Property
Is Gone.

Convicted of an infamous crime and sentenced to the State penitentiary for a term of seven and a half years, of which he served three years and nine months and was then granted a conditional pardon, Zachariah Armstrong, a young white man of Goodland county, who has just had his innocence established and been completely vindicated by the affidavit of the mother of the prosecutrix, died yesterday at the State penitentiary, leaving a young woman, Mrs. Susan Pleasant, who has been in the penitentiary since her arrest, and there is every assurance that as soon as certain formalities are completed, Armstrong will be completely vindicated and released of his crime, and will be able to return to his wife and children. Armstrong was a thrifty, hard working young man with a wife and several children, and though now and for several years (from his imprisonment) he had been in the penitentiary, he had never lost sight of his family, and he had been able to maintain his family's hereditary of a good name, which "is rather to be chosen than great riches."

Dying Woman's Statement.

The story is no stranger than fiction. The deposition of Mrs. Susan Pleasant, taken by Justice of the Peace W. H. Nicholas, embodies the statement of Mrs. Pleasant, nee Pleasant, the prosecutrix in the case of Armstrong, who was arrested on the request of her daughter, then upon her sick bed and just before her death, she went to her and was told by her daughter:

"Mamma, I want you to see the Governor for me, and write to him and try to get Zach Armstrong out of the penitentiary for me, for he was not the man that mistreated me that way. He is a innocent man I have put there. It was some one else, and I want him turned out."

When asked who was the real assailant, the dying woman, according to the deposition, stated:

"It makes no difference who it was now. Do as I ask you."

This deposition is certified to by Justice W. H. Nicholas.

His All Swept Away.

That the unfortunate man, convicted upon the false testimony of a woman, has suffered grievously goes without saying. Though released from custody, since March 1901, the man has all along rested under the foul stigma of guilt of a heinous crime, and has been subject to arrest and additional confinement upon the slightest violation of the terms of the parole. It is but tardy justice that this great wrong should be righted, and the man restored to complete liberty. Armstrong had a comfortable little home and farm when charged with crime and convicted, and during his incarceration all that was swept away and his family was subjected to hardship. During his confinement he earned a considerable money for the State as a convict, but it seems that there is no provision in the laws for the restitution to him of his earnings and of his property, swept away as a result of a foul and monstrous wrong perpetuated upon him.

It is understood that the Governor will grant the absolute pardon as soon as the necessary forms have been complied with.

PENNSY TO ACQUIRE VIRGINIA & CHARLESTON

(Special to The Times-Dispatch.)

PHILADELPHIA, Pa., January 12.—

Pennsylvania directors have ordered a call for the annual meeting at which the stockholders will be asked to consider an increase in the bonded indebtedness of the company and give the acquisition of the Monongahela Valley and the adjacent coke regions.

Pennsylvania proposes to absorb the Virginia and Charleston Railway, one of the most important subsidiary lines which supplies all the tonnage for the industries of the Monongahela Valley and the adjacent coke regions.

HUNDRED THOUSAND MINERS GO OUT ON STRIKE

(By Associated Press.)

BERLIN, January 12.—Nearly 100,000 miners of the Westphalian District have struck. A meeting of union leaders will be held on Thursday to determine whether the strike shall be made general. The desire to save prestige among the miners influenced them to take this step. The operators at Neurath in the Silesian District have refused the demands of the miners, negotiations have been broken off and the strike is in full progress there.

DEATH WATCH NOW OVER M'CUE

Prisoner Resents Being Moved
Into More Rigid
Quarters.

WILL NOT COMMIT SUICIDE

Wept When Told of Decision of
Supreme Court—Refers to His
Few Hours of Life.

(Special to The Times-Dispatch.)

CHARLOTTESVILLE, Va., Jan. 12.—

Although the decision of the Supreme Court refusing a writ of error to J. Samuel McCue, convicted of the murder of his wife, and under sentence to be hanged on the 20th, was received in Charlottesville and current on the streets in less than five minutes after its official announcement, the condemned man was not informed that his last hope was gone, as far as the courts are concerned, until after 4 o'clock this afternoon. At that hour, Sergeant C. W. Rogers, accompanied by Messrs. Walker and Sinclair, of McCue's counsel, Chief of Police Price and Officers Dameron and Marshall, appeared at the jail.

The sergeant entered the cell unaccompanied, the others remaining in the corridor. After the officer had shaken hands with the doomed man, Mr. Sinclair entered the cell, and the sergeant found that he had to perform the unpleasant duty of telling him that the application for a writ of error had been refused. The prisoner made no reply and submitted quietly to being searched by Officers Price and Dameron, who found nothing on his person. Then McCue broke down and wept.

Will Not Commit Suicide.

After a minute or so, he spoke for the first time: "I am not going to commit suicide. I will not snuff out this life, for it is only a matter of time anyway and if I did so, I would not see my dear wife in Heaven." He added that he hated to leave his children, but was going to meet his wife in Heaven.

Sergeant Rogers notified him that he would have to move him to another cell. The prisoner was not slow to let it be known that this was very distasteful to him.

"Why can't I stay here? These walls have become very dear to me."

"These are my orders," replied Mr. Rogers, "and I will have to carry them out."

Then began the transfer to the steel cage in what is known as the new part of the jail, erected some years ago and provided with all the modern appliances for the safe-keeping of criminals.

The prisoner insisted on taking all of his effects to his new quarters, but he was not permitted to transfer his trunk or any of his papers except his will. The will, which was written and signed by the prisoner, was taken to the jail, and the prisoner was looked in his old quarters, and the sergeant took possession of the key to the door. There were conveyed to his cell a table, typewriter and a number of religious books, all of the latter, except his Bible, which he had taken with him, he submitted to Mr. Sinclair.

Realized Difference.

McCue evidently realized a distinct difference in his condition. His old cell was commodious. The dimensions of his new

(Continued on Second Page.)

TRADED OFF PARKER FOR HEITFELD VOTES

This Charge Made by One of the
Witnesses in the Smoot
Investigation.

(By Associated Press.)

WASHINGTON, D. C., January 12.—

Nearly the entire day in the Smoot investigation was devoted to a continuation of testimony relating to political conditions in Idaho. Frank Martin and F. H. Holshouser, prominent Idaho Democrats, that a majority of the Democrats of the State opposed "an unnecessary attack" on the Mormon Church, which they said was the effect of the anti-polygamy plank of the party's State platform.

James H. Brady, chairman of the Republican State Committee, testified to taking advantage of Democratic charges in order to get votes for the Republican ticket. He charged also that the Democratic candidate for President, for former Senator Heitfeld, for the Democratic candidate for Governor. Just before the adjournment was taken until to-morrow, J. W. N. Whiteside, of Provo, Utah, was called to the stand, and an examination begun in relation to political conditions in Utah. Mr. Holshouser said there had been no plural marriages in Idaho since the manifesto.

There Were Many Minds.

The announcement of the refusal of the court to grant a writ of error was received with universal interest, and naturally elicited a variety of comment from both lawyers and the laity. Many who had read the abstract of the petition printed in this paper admitted that they had anticipated that the court would grant the writ and review the case, but some of these anticipated that the court would not grant the writ, and that the case would not interfere with the verdict of the lower court. There were those who stated that they expected just the announcement made, and still others who admitted that they had not known what to expect, but were impressed with the horror of the fate which the court's decision made certain. Some lawyers who do not care to be quoted by name as censuring the court, express doubt as to justification of the action taken, and some specify certain grounds of error as assigned by the petitioner's counsel were sufficient to justify granting the writ and hearing argument upon the case before a final opinion is rendered.

More conservative lawyers decline to pass upon the action of the court, frankly admitting that they had not read even the voluminous record. One gentleman, who does not wish to be quoted, expressed the view that the judges had doubtless reached the conclusion that the verdict met the ends of justice, and the

M'CUE'S DOOM IS NOW SEALED BEYOND ALL HOPE

The Supreme Court Re-
fuses a Writ of
Error.

EVERY EXCEPTION CAREFULLY WEIGHED

Judges Went Over Whole Re-
cord With Greatest Diligence,
No Weak Point.

NO GROUND FOR HOPE FROM THE GOVERNOR

None Doubts That His Excel-
lency Will Let the Law, Twice
Affirmed, Take Its Course.
Possible Respite May be
Granted, in Which to
Prepare for Death.

"J. Samuel McCue vs. Commonwealth Corporation Court of Charlottesville writ of error refused."

These thirteen words sound the knell of hope and ring the death bell of a man once prominent, universally respected and honored by his townsmen, but now doomed to die an ignominious death upon the scaffold like the commonest felon injured to a life of conscienceless crime. The simple statement conveyed in the words is a tragedy, following hard upon the heels of another tragedy, wrought in the darkness and solitude of the home of the doomed man, upon the wife whom he had sworn to love, cherish and protect. No spectators viewed the first tragedy, which was shrouded in secrecy, veiled with mystery. That other tragedy, now inevitable, will be the taking of a human life in open daylight, in the presence of his fellowmen and in obedience to the inexorable demands of justice.

The simple deliverance of the Supreme Court of Appeals of Virginia, removed the last lingering hope of J. Samuel McCue, now incarcerated under a life guard in the cell of the Charlottesville jail, anxiously awaiting the word which he anticipated would prolong his now startlingly brief life. There now remains but one hope, and that is slender as a thread, and a worn, frayed thread at that, the clemency of the Governor, who has so far refused to grant the pardon, and who has so far refused to grant the pardon, and who has so far refused to grant the pardon.

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